

**07 Civ. 8813 (RWS)**

**DECLARATION OF  
JOHN A. ORZEL IN OPPOSITION TO DEFENDANT'S MOTION TO  
VACATE  
MARITIME ATTACHMENT**

***Exhibit E***

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

PROSHIPLINE, INC., EP-TEAM, INC.,

Plaintiffs,

v.

ASPEN INFRASTRUCTURES, LTD., f/k/a  
SUZLON INFRASTRUCTURE, LTD.,

Defendants.

MASTERS AND PURSERS OF THE M/S  
MARGARETHA GREEN, *et al.*

Garnishees.

Case No. C07-5660FDB

ORDER DENYING PROSHIPLINE'S  
MOTION FOR RECONSIDERATION  
and ORDERING RELEASE OF  
FUNDS IN THE COURT'S  
REGISTRY

On March 28, 2008, this Court granted Aspen's motion to vacate the Rule B garnishments and to exonerate the security. On April 7, 2008, Plaintiffs ProShipLine and EP-Team (hereafter, collectively PSL) moved for reconsideration and/or for stay pending review. On April 14, 2008, Aspen filed a Praecipe requesting the Clerk to release the security to Aspen as ordered on March 28, 2008. Also on April 14, 2008, PSL moved for preservation of the security and for stay pending review of the motion for reconsideration. As requested, Aspen filed its response to PSL's motion for reconsideration combined with a response to PSL's request for stay.

1 PSL challenges the Court's authority to order the return of the full market value of the  
2 bunkers attached, that the order fails to account for the amount deposited into the Court's registry,  
3 argues the question of jurisdiction, that an improper burden has been imposed upon Plaintiffs, proper  
4 procedure under Rule B, and that *res judicata* has no application in this case.

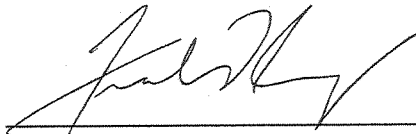
5 Aspen has responded addressing PSL's arguments.

6 Having considered PSL's arguments and Aspen's response thereto, this Court is not  
7 convinced to reconsider its Order Granting Aspen's Motion to Vacate Rule B  
8 Attachments/Garnishments and To Exonerate Security. For the reasons stated in Aspen's Combined  
9 Response, the PSL's motion for reconsideration and motion for stay will be denied. The parties had  
10 agreed that the value of the bunkers attached and removed was \$93,040.56. Bunker sale proceeds of  
11 \$64,129.50 was deposited by Plaintiffs into the Court's Registry; \$28,092.06 is the remainder that  
12 Plaintiffs owe Aspen.

13 NOW, THEREFORE, IT IS ORDERED:

- 14 1. ProShipLine and EP-Team's Motion for Reconsideration and/or for Stay Pending  
15 Review (Dkt. # 96) is DENIED;
- 16 2. ProShipLine and EP-Team's Motion for Order Regarding Preservation of Security  
17 Pending Review and for stay (Dkt. # 99) is DENIED;
- 18 3. The Clerk is Ordered to release the substitute security of \$64,129.50 in the Court's  
19 Registry and ProShipLine and EP-Team shall pay the remaining \$28,092.06 owing to  
20 Aspen as directed in the Court's Order entered March 28, 2008.

21 DATED this 17<sup>th</sup> day of April, 2008.

22   
23 \_\_\_\_\_  
24 FRANKLIN D. BURGESS  
25 UNITED STATES DISTRICT JUDGE  
26